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SUBJECT: SHIA FAMILY LAW: MOMENTUM TOWARDS A MORE
PROGRESSIVE LAW

REF: KABUL 971

11. (U) SUMMARY: In an April 28 meeting with President Karzai, civil society representatives and several MPs discussed specific concerns regarding the Shia Family Law (reftel) and delivered an alternate, progressive draft law. Two days later, faculty at private law school Ketab University held a gathering in support of their own relatively progressive draft Shia Family Law, which backer Afghan Independent Human Rights Commission (AIHRC) Chair Sima Samar had presented to Karzai several months ago. Meanwhile the Ministry of Justice (MOJ) initiated its review of the law signed by Karzai. Lower House MP and Women's Affairs Committee Chairwoman Tahera Meherzada (Kapisa, Tajik) told us many MPs regretted voting for the Shia Family Law. She predicted Parliament would support a more egalitarian bill. Finally, Embassy is reviewing a proposal from Bamyian and Dai Kundi Province Shia women for a Kabul Shia Family Law conference.

Two Alternate Drafts

12. (U) In an April 28 meeting with Karzai, MPs Fawzia Kofi (Badakhshan, Tajik), Sabrina Saquib (Kabul, Tajik) and Shinkai Karokhail (Kabul, Pashtun), and approximately 40 civil society representatives discussed specific concerns regarding the Shia Family Law and presented Karzai with their own draft law. According to several attendees, Karzai described his signing of the Shia Family Law as "a mistake by his team" and claimed his advisors had not thoroughly briefed him on the law's provisions. Karzai did not agree to any specific change but promised MOJ's modifications would satisfy civil society. Department of State 2009 Women of Courage Awardee and Global Rights Country Director Wazhma Frogh described the conversation as "extremely positive," and said she was impressed by how receptive Karzai was to the group's demands.

13. (U) Meanwhile, faculty at Kateb University-a private, secular law school widely rumored to receive funding from Iranian sources-hosted an April 30 discussion in support of their own draft Shia Family Law. (The university presented its draft to Karzai several months ago through supporter AIHRC Chair Sima Samar.) The university's draft law contained several positive provisions such as providing for women's freedom of movement. According to Wazhma Frogh, backer of civil society's draft, however, the university's version was not as progressive as civil society's. University Director Amin Ahadi said laws should adapt to modern times and the needs of the people rather than attempt to replicate customs

and traditions from the beginning of Islam. Samar and MP Fatima Nazari (Kabul, Hazara) attended along with approximately 150 others, mostly Shia Hazaras.

MOJ review process: Underway

¶4. (U) Ministry of Justice started its review of the law, which will likely be a lengthy process. Although our position is that the review process be Afghan-led, Embassy officers are closely monitoring MOJ's efforts and will suggest progressive modifications as appropriate to bring the law into line with the Afghan constitution and human rights and civil rights principles.

Women's Affairs Committee Chairwoman: MPs to Support More Progressive Law

¶5. (U) Lower House MP and Chair Women's Affairs Committee Tahera Meherzada (Kapisa, Tajik), is confident the re-draft of the Shia Family Law will be much more egalitarian. Many MPs regret voting for the Shia Family Law and would now support a more progressive version, she said. Her understanding was that the government will submit the bill to Parliament for approval upon completion of MOJ's review.

Bamyian and Dai Kundi Women Speak Up: Possible Shia Family Law Conference

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¶6. (SBU) Women leaders from Bamyian and Dai Kundi provinces approached Bamyian PRToff and requested support for a Kabul Shia Family Law Conference. INL's review of the proposal is ongoing.

Comment

¶7. (SBU) The civil society representatives who met with Karzai are experienced advocates. That they saw Karzai's promise to revamp the law as a serious commitment means Karzai either put on an exceptionally good show or truly regretted how the law turned out. However, Embassy contacts who supported the law's original text and have met with Karzai to urge him not to modify the language report that Karzai has been receptive to their lobbying efforts. Some conservative Shias claim that Karzai promised them he would protect the original intent of the law. MOJ will likely use the law signed by Karzai as its base rather than adopt one of the two alternate drafts. Embassy will continue to pressure Karzai and other relevant government actors to support a version protective of women's rights.

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